MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2022/2023 (TERM ID 2210)

UEQ3612 - EQUITY AND TRUSTS I

(All Sections / Groups)

11th FEBRUARY 2023
Reading Time: 9.00am-9.15am
Answering Time: 9.15am-12.15pm
(3 Hours 15 Minutes)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of **Four** pages with **Five** Questions only.

3. **Attempt Either 1A OR 1B. Questions 2 to 4 are compulsory.** All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring in CLEAN and ORIGINAL copies of the following statutes into the Examination Hall:
   i) Trustees Act 1949
   ii) Specific Relief Act 1950

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

ATTEMPT EITHER

QUESTION 1A

There are instances that equity will assist a volunteer and perfect an imperfect gift. One such instance is proprietary estoppel.

Explain the concept of proprietary estoppel in contrast to equitable estoppel with reference to relevant case law and an analysis of the following cases:

- *Koperasi Kasuma (M) v Pengarah Tanah dan Galian Selangor & Ors* [1991] 3 CLJ 44; and
- *Seck Mun Foo& Ors v Datuk Harris bin Mohd Salleh* [1993] 1 AMR 13.

(Total: 25 marks)

OR

QUESTION 1B

Several decades ago, Alice Aloe had set up Plant Passion Sdn Bhd, a company that primarily sold plants with her friend Walter Thorn. Following discoveries of fraud and dishonesty by Walter, among others by setting up Walt Synthetic Nursery Sdn. Bhd., she had set out to be successful on her own and be an example for future businesswomen. She succeeded in building a horticulture empire and became one of the top business persons in the country.

Several years ago, she set up a trust in the form of a school and boarding for destitute and/or homeless young women and girls called The Rose Project. The Rose Project was run by a board of three trustees with her being one of them. In The Rose Project's first official meeting Alice announced that all of the remainder of her assets in cash and real estate were to be for The Rose Project. She further gave instructions to her accountants and solicitors that the remainder of her assets in cash and real estate after distribution via her will were meant for The Rose Project.

The Rose Project had purchased and built a school, boarding house and various enrichment centres partly from the sales of some of Alice's real estate. Seeing the success of the existing extent of the project, they set out to expand to other parts of the country by entering into agreements to purchase land, with construction contractors, hiring teachers, etc.

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Alice was close to her three children and nurtured them to be as successful as possible while being kind and generous individuals. Vera was most interested in her mother's work. Therefore, Alice had groomed her to take over when Alice stepped down. Alice had also stated on numerous occasions with varied witnesses that her shares in her companies were for Vera.

Alice Aloe passed away last month. She was mourned by many.

Following her passing, her legacy is currently in a state of chaos. Alice never transferred her shares in her companies to Vera during her lifetime. She did, however, make Vera the executor of her will. The will does not bequeath the said shares to Vera. It appears that they were bequeathed to her middle sister, Wang. Vera won't be able to assume control over the companies without those shares.

Additionally, Alice never transferred any of the real estate she talked about to the board of trustees of The Rose Project. She never executed any memorandums of transfer over such lands. She also did not mention them or the cash in her will. As a result, all of the so-called assets in cash and real estate she declared were to be for The Rose Project, shall be passed to Alice's three children.

Alice's solicitors have advised the family and the board of trustees that she prepared her will a week before her passing by her deathbed. She was reported to be agitated and distracted while giving the solicitors their instructions.

The board of trustees of The Rose Project is hoping to claim the assets that were promised to them. Vera would like to claim the shares promised to her.

Advise all the concerned parties.

(Total: 25 marks)

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ATTEMPT ALL QUESTIONS

QUESTION 2

Jake Peralta and Amy Santiago fell in love while on duty as Police Officers, working at the 99th precinct. After two years of dating, they decided to move in together. They found a house they loved on Brooklyn Street and decided to purchase it. Jake paid for the full purchase price of RM500,000. He put the house in Amy's name because he was worried anything could happen to him in the line of duty and wanted to make sure that Amy had a home to return to.

Once they received the keys to the new house, Jake stated, '*this will always be your home*'. Sadly, after six months of living together, Amy and Jake's relationship turned sour. Jake wants to sell the house on Brooklyn Street and get his money back. However, Amy argues that it is hers and refuses to leave.

(a) Determine if Amy has possible rights to stay in the Brooklyn Street house.

(10 marks)

(b) Illustrate how your answer would differ if Amy and Jake were married.

(15 marks)

(Total: 25 marks)

QUESTION 3

Initially, the degree of knowledge required for accessory liability was very haphazard. However, the decision in *Royal Brunei Airlines Sdn Bhd v Tan* [1995] UKPC stated that dishonest assistance was the required knowledge to find someone personally liable to account as a constructive trustee.

Explain the various changes in the degree of knowledge and state whether Malaysia maintains the same standard of fault. Illustrate your answer with reference to relevant case law and articles.

(Total: 25 marks)

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QUESTION 4

Tony Stark, a philanthropist and CEO of Avengers Inc., has recently died. His will includes the following provisions:

a) RM200,000 for worthy purposes benefitting former employees and members of Avengers Inc. Avengers Inc. is a private military shield manufacturing company and has a very large and uneducated workforce.

b) A gift of RM500,000 to Xavier's School for Gifted Youngsters. Xavier's School for Gifted Youngsters is an independent private school that charges RM20,000 per year in student fees but provides some free school meals to poor students.

c) RM300,000 to Raven-Backster-Tips, a group of psychic clairvoyants living entirely isolated from the wider community. They also worship various gods and their main aim is to pray for the well-being of the general public living outside their isolated group.

d) RM400,000 to Hydra Bubble Tea Shop. Hydra Bubble Tea Shop sells tasty bubble tea and gives away two fifths of their profit to groups campaigning for new legislation that would raise the minimum wage in Malaysia.

e) The remainder of my estate for the benefit of my son, Peter Parker.

Examine if the above gifts are for legally valid charitable purposes. Illustrate your answer with relevant case law and articles.

(Total: 25 marks)

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